

WASHINGTON, DC—Congressman Joe Sestak (Pa-07) supported H.R. 985, the Free Flow of Information Act of 2009, which passed the House of Representatives by a voice vote on March 31, 2009. This bill protects journalists from being forced to provide information or sources to government officials and agencies, unless a court judge makes a specified determination that the information is critical to a criminal investigation or related to national security.

“Good governance depends on accountability and transparency,” said Congressman Sestak. “A free and independent media is a key element of ensuring that government is responsive and responsible to the American people. This bill will protect journalistic integrity and independence by shielding reporters from being forced to divulge sources or information, unless a judge determines that information is critical to a criminal case or security issue.”

### Bill Summary

H.R. 985 maintains the free flow of information to the public by providing conditions for the disclosure of information by certain persons connected with the news media. Specific Provisions include:

Prohibits a federal entity from compelling a news reporter or journalist to testify or produce any document unless a court makes specified determinations that:

Alternative sources have been exhausted in attempts to obtain the specific information.

The testimony or document sought is critical to a criminal investigation or national security issue.

The disclosure of the information source's identity is necessary to a specific investigation.

The public interest in disclosure of the information or document involved outweighs the public interest in gathering or disseminating news or information.

Allows a court to consider the extent of any harm to national security.

Defines the applicability of this provision to any person who regularly gathers, photographs, records, writes, edits, reports, or publishes information concerning matters of public interest for dissemination to the public for a substantial portion of the person's livelihood or substantial financial gain, including a supervisor, employer, parent, subsidiary, or affiliate of such a person. Excluded from this definition are foreign powers and their agents and certain terrorist organizations and individuals.

Requires the content of compelled testimony or documents to be limited and narrowly tailored. Prohibits construing this Act as applying to civil defamation, slander, or libel claims or defenses under state law.

Exempts certain criminal or tortuous conduct.

Applies this Act to communications service providers with regard to testimony or any record, information, or other communication that relates to a business transaction between such providers and news reporters or journalists.

*Born and raised in Delaware County, former 3-star Admiral Joe Sestak served in the Navy for 31 years and now serves as the Representative from the 7th District of Pennsylvania. He led a series of operational commands at sea, including Commander of an aircraft carrier battle group of 30 U.S. and allied ships with over 15,000 sailors and 100 aircraft that conducted operations in Afghanistan and Iraq. After 9/11, Joe was the first Director of "Deep Blue," the Navy's anti-terrorism unit that established strategic and operations policies for the "Global War on Terrorism." He served as President Clinton's Director for Defense Policy at the National Security Council in the White House, and holds a Ph.D. in Political Economy and Government from Harvard University. According to the office of the House Historian, Joe is the highest-ranking former military officer ever elected to the U.S. Congress.*

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